REQUEST

Withers and Ravenel, on behalf of the property owners, has requested approval of a subdivision and site plan to develop 169 townhomes and eight detached dwellings on approximately 59 acres located on Green Hope School Road east of I-540. The proposal includes modifications to Town standards, including the averaging of a streetscape and the removal/replacement of a champion tree. An associated citizen-initiated annexation petition, 13-A-16, is also before Town Council and would need to be approved prior to the approval of this subdivision and site plan.

SUBJECT PARCELS

<table>
<thead>
<tr>
<th>Property Owner</th>
<th>Wake County Parcel Identification Number (PIN) (10-digit)</th>
<th>Real Estate ID Number</th>
<th>Deeded Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brenda P Batchelor and Susan H Mann 7217 Green Hope School Road Cary, NC 27519</td>
<td>0734360623</td>
<td>0203271</td>
<td>57.50</td>
</tr>
<tr>
<td>Brenda P Batchelor and Susan H Mann 7217 Green Hope School Road Cary, NC 27519</td>
<td>0734264996</td>
<td>0365276</td>
<td>1.48</td>
</tr>
<tr>
<td><strong>Total Area</strong></td>
<td></td>
<td></td>
<td><strong>58.98</strong></td>
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BACKGROUND INFORMATION

<table>
<thead>
<tr>
<th>Applicant's Agent</th>
<th>Tucker McKenzie Withers and Ravenel 111 MacKenan Drive Cary, NC 27511 (919) 469-3340 <a href="mailto:tmckenzie@withersravenel.com">tmckenzie@withersravenel.com</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>General Location</td>
<td>Green Hope School Road, immediately east of I-540</td>
</tr>
<tr>
<td>Land Use Plan Designation</td>
<td>Medium-Density Residential (MDR) and Parks and Open Space (PKS/OS)</td>
</tr>
<tr>
<td>Zoning Districts</td>
<td>Transitional Residential – Conditional Use (TR-CU) and Residential 12 – Conditional Use (R-12-CU) – 07-REZ-09</td>
</tr>
<tr>
<td>Within Town Limits</td>
<td>No</td>
</tr>
<tr>
<td>Staff Contact</td>
<td>Kevin A. Hales, Senior Planner Town of Cary Planning Department P.O. Box 8005 Cary, NC 27512-8005 (919) 462-3944 <a href="mailto:kevin.hales@townofcary.org">kevin.hales@townofcary.org</a></td>
</tr>
</tbody>
</table>
LIST OF EXHIBITS

The following documents incorporated into this staff report are to be entered into the record for this hearing:

Exhibit A: 13-SB-007 Application (3 pages)
Exhibit B: 13-SB-007 Plan Set (51 pages) (FTP site – Planning/Quasi-Judicial Cases/)
Exhibit C: Minor Modification Justification
Exhibit D: 13-SB-007 Tree Report (12 pages)
Exhibit E: Minor Modification Exhibit (1 page)
Exhibit F: Traffic Analysis Summary (17 pages)
Exhibit G: Turn Lane Letter (1 page)

PROJECT DESCRIPTION/SUMMARY OF REQUEST

Withers and Ravenel, on behalf of the developer, Meritage Homes, and the property owners, Brenda Batchelor and Susan Mann, has requested approval of a subdivision and site plan to develop 169 townhomes and eight detached dwellings on 59 acres located on Green Hope School Road between I-540 and the Highcroft subdivision. Primary access would be from Green Hope School Road, opposite Twyla Road. Two street stubs from the Highcroft subdivision, Boscawen Lane and Piermont Drive, would be extended through this development. Stormwater management would be provided through two stormwater devices located in the central and southern portions of the site.

As proposed, this project includes a couple of modifications to Town development standards. An existing utility easement running outside of and parallel to the right-of-way of Green Hope School Road has prompted the developer to request the averaging of the streetscape west of the entrance drive. In addition, a survey of the existing tree cover on the site identified a number of trees in excess of 30 inches in diameter. An ISA certified arborist evaluated each of the trees and provided a written recommendation for each of the trees. The applicant has proposed to remove three of the trees identified in the report, only one of which was considered to be healthy and worthy of preservation. The applicant has proposed replacement trees in the development in excess of the LDO requirements.

SITE CHARACTERISTICS

Streams: The property is split on a north-south axis by a stream buffer. The stream represents the split between the TR and the R-12 zoning districts. Additional stream buffers restrict the development of the extreme southern portion of the property.

Floodplain: There is no floodplain or flood hazard area impacting development of the property.

Wetlands: There are several wetlands that would impact development of the property.

Topography: The elevation of the site descends approximately 60 feet from a knoll located near the I-540 bridge at the northern end of the site toward the stream that bifurcates the property.

Surrounding Land Uses:
North – College Park Baptist Church and Twyla Road residences
South – Highcroft
East – Highcroft
West – I-540 and Thomas Brooks Park beyond

SUMMARY OF PROCESS AND ACTIONS TO DATE

Notification
The Planning Department mailed notification of the public hearing on the subdivision and site plan to property owners within 400 feet of the site on November 26, 2013. Notification consistent with North Carolina General Statutes was published in the Cary News both on November 27 and on December 4, 2013.

Property Posting
Notice of the public hearing was posted on the property on November 27, 2013.
Traffic
This project has been under development for some time and the original Traffic Impact Analysis (TIA) was performed in September 2007 (07-TAR-241) by VHB Engineering NC, PC (previously Martin/Alexiou/Bryson, PC). Given the lapse of time between that study and this submittal, the applicant had the study updated by VHB Engineering NC, PC in August 2013. The revised study (Exhibit F) took into account a reduction in unit count to 10 detached dwellings (down from 12) and 169 townhouses (down from 200). The TIA provides the following recommendations:

Green Hope School Road and Site Access/Twyla Road
- Construct site access at the planned location (opposite Twyla Road) to provide for an inbound lane and two outbound lanes with a shared left-turn/through lane and an exclusive right-turn lane with at least 100 feet of storage length and an appropriate taper; and
- Widen Green Hope School Road on the westbound approach to provide for an exclusive left-turn lane with at least 100 feet of storage length and an appropriate taper.

The applicant has proposed to provide all of the suggested traffic mitigations identified in the TIA. In addition, though it does not appear in the TIA as a recommended mitigation, Town staff made the applicant aware of concerns regarding adequacy of the stacking length for the northbound left turn from NC 55 onto Green Hope School Road. The Fryar Tract development has committed to lengthening the storage length for that movement to 365 feet as part of their development plan. However, staff recommended that the storage be lengthened to at least 550 feet. Meritage Homes has committed to working with the developers of the Fryar Tract to make the necessary improvements so that the entire lengthening can occur at one time.

Comprehensive Transportation Plan (CTP) Improvements
Green Hope School Road is identified as a 3-lane section in the CTP. This would require a 45-foot section back-of-curb to back-of-curb within a 70-foot right-of-way. The developer has proposed to make the required improvements in addition to flattening out the curvature of Green Hope School Road at the eastern end of their frontage. This is necessary to accommodate the design speed (50 mph with a posted speed of 45 mph) of the road.

Buffers and Streetscapes
A 30-foot Type B perimeter buffer would be required adjacent to the Highcroft subdivision. This buffer would be shared between this development and Highcroft, and the buffer provided by the proposed development varies along the length of the property line depending on the width already provided by Highcroft. The project would provide the required 100-foot thoroughfare corridor buffer along its I-540 frontage. This would be supplemented to satisfy a Type A performance standard.

The development would be required to provide a 50-foot streetscape along Green Hope School Road. There is an existing Town of Cary utility easement impacting that streetscape to the western side of the proposed entrance drive for the development. The applicant has proposed to provide an averaged streetscape width in accordance with LDO Section 7.2.10(D). The streetscape would not be reduced to less than 30 feet outside of the utility easement, and the additional width would be provided between the block of townhomes and on the future Phase 3 recreation site. In addition, the applicant is exploring the possibility of obtaining an encroachment from NCDOT to plant within portions of the right-of-way no longer needed by the state since the construction of I-540 is complete. [see Exhibit C and Exhibit E]

Champion Trees
The tree survey required by Section 7.2.5(A) of the LDO identified 11 trees in excess of 30 inches in diameter (at breast height or DBH). The applicant had Amy McBride Trudo, an ISA certified arborist, examine the trees in the field and evaluate them as to whether they should be considered as champion trees due to size, to health, or to other professional criteria. Ms. Trudo’s report is attached to this staff report as Exhibit D. The results of her evaluation of the trees were that of the 11 originally identified large-diameter trees, seven trees should be classified as champion trees in regards to the Town’s preservation requirements. The remaining four trees were disqualified for a number of reasons, most notably due to disease and/or structural damage.
The LDO in effect at the time of plan submittal required that no Champion Tree be removed from the site without the approval of the Planning Director or, in this case, the Town Council. The applicant has designed their layout so that three of the large-diameter trees would be removed and two would have their critical root zone (CRZ) impacted by development. Sheet 9.4 of the plan set has overlaid the locations of the large-diameter trees identified in the tree survey with the proposed site layout. Trees 1, 2, and 3 are proposed for removal. Trees 4 and 5 would have a percentage of their CRZ impacted by the proposed development. Of the trees impacted by the development and recommended for removal, only tree 2 would be considered a champion tree. Replacement of the champion tree removed from the site would be consistent with the requirements of Section 7.2.5 of the LDO.

Tree 1 is a 42-inch eastern red cedar located in the vicinity of the entrance drive. The Town and the applicant desire the entrance to line up with Twyla Road across Green Hope School Road. This would make the preservation of this tree impractical given the engineering requirements for the alignment of the entrance road. In addition, the arborist’s report indicates extensive decay present in both the main trunk and at the basal (root) flare. Thirty percent or more of the crown contains broken or dead branches, making the tree ineligible for champion status within the Town.

Tree 2 is a 42-inch red oak in the vicinity of the existing outbuildings on the site. The tree is healthy and has good form according to the arborist’s evaluation. The report indicates that a large percentage of the CRZ has been impacted by the gravel drives around the buildings; however, the tree appears to have adapted well to the impacts. This tree is located in the center lot 118, which is located in the center of a proposed block of townhome units. The tree could be saved through the loss of the lot and its adjacent lots. However, one of the zoning conditions on the property establishes a minimum gross density for the tract of three units per acre. With the provision of eight detached dwelling units on the east side of the creek, the townhome portion would be required to provide at least 169 units to satisfy this zoning condition. Reducing the lot widths would eliminate the applicant’s ability to provide garage units, forcing parking onto the street. Given their preference to provide garages, there was no alternative location to fit in the required units. Therefore, they have requested that Council approve the removal and the replacement of tree 2.

Tree 3 is a 34-inch red oak with a tight split just above breast height identified in the arborist’s report as tree 4. The arborist indicates that there were no signs of significant decay or damage; however, the canopy is thin and not characteristic of the species. The tree is located in the curb line of the continuation of Boscawen Lane through the site. Given the tree’s location coupled with the arborist’s poor evaluation of the tree’s form, staff did not consider tree 3 as a candidate for preservation. In addition, if the tree could be preserved and had a better canopy, it would still be a candidate for removal in a residential setting given the structural concerns with such a tight split so low on the trunk.

Tree 4 is a 30-inch sweetgum located in a pocket of wetlands in the center of the site. The arborist’s report indicates that more than 50% of the canopy is dead or with many broken scaffold branches (larger diameter, structural branches). While the arborist report recommends removal of this tree, the applicant has proposed to retain the tree on site, though a portion of the tree’s CRZ would be impacted for grading and for the structure on lot 133. It is likely that this tree, already in an advanced state of decline, will not respond well to the additional impacts to the root zone.

Tree 5 is a 30-inch oak located at the edge of a stream buffer behind lots 84 and 85. The arborist’s report indicates both girdling roots and decay in the basal flare. The tree also has several broken scaffold branches, and tip dieback in the canopy indicates some level of decline in the tree’s vitality. The tree is located just outside of a stream buffer and is intended to be retained. However, the applicant has proposed to impact a portion of the tree’s CRZ with a fill slope for the rear yards of lots 84 and 85. It is likely that the proposed fill will have some impact on the health of the tree; however, the tree is not in as bad a shape as tree 4 and is more likely to adjust over time to its new condition.

**Connectivity with Adjacent Properties**

The LDO requires that development provide connections to adjacent parcels to facilitate internal and external traffic movement in the community. The development would extend the existing street stubs for Boscawen Lane and Piermont Drive through to Green Hope School Road. The location of I-540 immediately to the west of the development precludes any connectivity in that direction. There are no street stubs from the portion of Highcroft Drive to the southern side of the proposed development, so no provisions for connectivity have been made in that direction. This does not represent a Minor Modification.
to the ordinance requirements since the LDO requires connections every 1,250 to 1,500 feet. Highcroft Drive, which runs north to south, is located within 1,100 feet of the western property line for the proposed project; therefore, a second connection to the south would not be required.

**Stormwater Management**
Stormwater management would be handled through the use of two detention ponds, one centrally located in the development and the second located at the southern end of the site.

**Utilities**
The project is well located in regard to access to both water and sewer services. Water would be provided via an existing 16-inch water line in Green Hope School Road. This line would tie into the waterline stubbed with Piermont Drive to create a looped system. Reclaimed water would be brought into the site from the 12-inch reclaimed water line on the north side of Green Hope School Road.

The proposed townhome portion of the development would be sewer through a new connection to the existing line running behind the Highcroft lots at the southern tip of the property. The detached dwelling portion of the development would be sewer through the sewer lines provided in both Boscawen Lane and Piermont Drive.
DEVELOPMENT PLAN WORKSHEET
AND
SUGGESTED MOTIONS

Section 3.9.2(I) of the LDO states that a development plan may be approved by the Town Council only if it meets six listed criteria. As part of determining whether the first criterion is satisfied, council must determine whether to grant the Minor Modifications to the development standards requested by the applicant. Staff comments are included as appropriate in italics following each criterion. A roadmap of the decisions council must make is provided below:

WORKSHEET 1

1. Does the plan comply with all applicable requirements of the LDO, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8 as well as all applicable Town specifications?

   As indicated in the staff report above, the proposed development plan is not in compliance with the requirements of the LDO. The applicant has requested approval of several Minor Modifications to the Town’s development standards. Council must find that each of the requested modifications: (1) advances the goals and purposes of the LDO; and (2) either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing the site. In addition, when considering the averaging of the streetscape, council must determine if: (1) the streetscape equals the required width; (2) the streetscape is at least 30 feet in depth; and (3) the reduced streetscape provides sufficient plantings, fences, or walls, to meet the intent of the streetscape.

Once council has made a decision on the Minor Modifications, it may then turn to the remaining site plan approval criteria:

WORKSHEET 2

2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?

3. Does the plan provide harmony and unity with the development of nearby properties?

4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?

5. Does the plan provide safe ingress and egress for emergency services to the site?

6. Does the plan provide mitigation for traffic congestion impacts reasonably expected to be generated by the project?
1. Does the plan comply with all applicable requirements of this Ordinance, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8 as well as all applicable Town specifications? (Note: Plans within Planned Developments may be subject to different requirements based on the approval).

    The request for the averaging of the streetscape is governed by Section 7.2.10 of the LDO. Section 3.19 of the LDO governs Minor Modifications to other requirements of the LDO.

    Town Council should consider and approve the Minor Modification requests below pursuant to section 3.19.1(C)(2) of the LDO. Council may approve a Minor Modification to the development standards at any point before it approves the associated development plan. However, in order to approve a requested Minor Modification, the council must find the following:

    (1) That the modification advances the goals and purposes of this Ordinance and

    (2) That the modification either

        A. Results in less visual impact or more effective environmental or open space preservation, or

        B. Relieves practical difficulties in developing a site. In determining if "practical difficulty" exists, the factors set forth in Section 3.20.5, "Approval Criteria" (for Variances) shall be considered.

    The criteria for determining whether or not "practical difficulty" exists include the following:

        a. Whether there can be any beneficial use of the property without the variance;
        b. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
        c. Whether the variance would adversely affect the delivery of public services such as water and sewer;
        d. Whether the applicant purchased the property with knowledge of the requirement; and
        e. Whether the applicant's predicament can be mitigated through some method other than a variance.

    In granting a Minor Modification, council may require conditions that will substantially secure the objectives of the standard that is being modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering. In addition to the requirements of Section 3.19, individual requests may have additional criteria for consideration.

1. Request that the Town Council allow the averaging of the Green Hope School Road streetscape.

    (1) Does the averaged streetscape width equal the required width?

    The applicant’s landscape plan (sheet 9.1) includes calculations demonstrating how the applicant has averaged the proposed streetscape. A total of 57,554 square feet of streetscape would be in the required 50-foot streetscape. The applicant has proposed to provide the required 57,554 square feet in averaged streetscape area. In addition, the applicant is working with NCDOT to secure an encroachment agreement for planting an additional 4,990 square feet of area within the right-of-way for Green Hope School Road.
If successful, this planting area would bring the total streetscape area over the required area contained in the typical 50-foot streetscape.

TEST SATISFIED? __ YES __NO

(2) Is the streetscape adjacent to single-family residential development less than 30 feet in width?

The proposed development plan includes a 30-foot streetscape behind all of the townhome lots backing up to Green Hope School Road. There are no detached dwellings that back up to Green Hope School Road.

TEST SATISFIED? __ YES __NO

(3) Do the areas of the streetscape that have been reduced include additional vegetation, walls/fencing, and/or other measures do meet the intent of the streetscape?

The proposed streetscape contains the amount of vegetation that could be fit within the 30-foot streetscape width. The additional planting area in the right-of-way, if an encroachment agreement is granted, would be in excess of the typical streetscape plantings.

TEST SATISFIED? __ YES __NO

2. Request that the Town Council approve the removal and the replacement of one champion tree (Tree 2) per Section 7.2.5 of the LDO

(1) Does the modification advance the goals and purposes of this Ordinance?

Section 7.2.5 of the LDO states that existing significant vegetation should be retained to the extent practical and reasonable, while taking unique site conditions and features into consideration. The rezoning conditions attached to this property include a minimum density of 3.0 units per acre, which is consistent with the land use designation of Medium Density Residential (3 to 8 units per acre). The removal of tree 2 would allow the development to meet this required density while maintaining the quality of development the Town would prefer to see. Preservation of the tree would require the lot size to decrease to the point that garages would no longer be feasible; and the streets would need to be redesigned to accommodate on-street, head-in parking. This arrangement has proved problematic for residential uses in the recent past in regards to waste services for units internal to the townhouse block.

TEST SATISFIED? __ YES __NO

(2) Does the modification result in less visual impact or more effective environmental or open space preservation or relieve practical difficulties in developing a site?

The tree is located such that the townhome building being proposed cannot be reasonably relocated elsewhere on the property. Since the rezoning conditions on the property include a minimum density, removing the single champion tree would relieve difficulty in otherwise meeting those requirements.

TEST SATISFIED? __ YES __NO
SUGGESTED MOTIONS FOR MINOR MODIFICATION REQUEST

MOTION TO APPROVE ALL MINOR MODIFICATION REQUEST:

For the reasons discussed, I move that we APPROVE the Minor Modification requests made by the applicant as the requests meet all the approval criteria of Section 3.19.1 and Section 7.10.2 of the LDO.

This approval is conditioned upon the following:

1. [insert any conditions necessary to bring the project into compliance with the LDO or other standards]

MOTION TO APPROVE INDIVIDUAL MINOR MODIFICATION REQUESTS:

For the reasons discussed, I move that we APPROVE Minor Modification requests number(s) ________ made by the applicant as the requests meet all the approval criteria of Section 3.19.1 and/or Section 3.23 of the LDO.

This approval is conditioned upon the following:

1. [insert any conditions necessary to bring the project into compliance with the LDO or other standards]

MOTION TO DENY ALL MINOR MODIFICATION REQUESTS:

For the reasons discussed, I move that we DENY the Minor Modification requests made by the applicant as the requests do not meet all the approval criteria of Section 3.19.1 and/or Section 7.10.2 of the LDO.

MOTION TO DENY INDIVIDUAL MINOR MODIFICATION REQUESTS:

For the reasons discussed, I move that we DENY Minor Modification requests number(s) ________ made by the applicant as the requests do not meet all the approval criteria of Section 3.19.1 and/or Section 7.10.2 of the LDO.
2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?

The proposed plan is generally consistent with the requirements of the LDO except as indicated above. The detached dwelling portion of the development abuts the existing Highcroft neighborhood, with a stream buffer separating that from the proposed townhome portion. The applicant has not requested reductions or modifications to perimeter buffers adjacent to the Highcroft neighborhood.

TEST SATISFIED? __ YES __ NO

3. Does the plan provide harmony and unity with the development of nearby properties?

The proposed development would be a mix of residential townhome and detached dwelling development. As mentioned previously, the detached dwelling units would be located adjacent to Highcroft and would be separated from the townhome portion by a stream buffer running the length of the site. The residential nature of Highcroft would not be anticipated to be adversely affected by the proposed layout, thereby placing the denser development closer to the Interstate highway.

TEST SATISFIED? __ YES __ NO

4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?

The proposed development would comply with all design requirements for roadways and sidewalks found in the LDO and with the Town’s Standards and Specification Manual. Adequate sight distance would be provided at all intersections consistent with AASHTO standards. The applicant is providing all of the mitigations outlined in the TIA for the project, in addition to committing to provide additional storage length on NC 55 to address a staff concern.

TEST SATISFIED? __ YES __ NO

5. Does the plan provide safe ingress and egress for emergency services to the site?

The proposed plan would provide street access from Green Hope School Road with additional access through the Highcroft neighborhood via Boscawen Lane and Piermont Drive. There have been no concerns with the proposed layout voiced either by the Police or by the Fire Departments of the Town.

TEST SATISFIED? __ YES __ NO

6. Does the plan provide mitigation for traffic congestion impacts reasonably expected to be generated by the project?

The applicant is proposing to construct all of the mitigations identified in the TIA as a product of the proposed development. In addition, the developer has proposed to work with the Fryar Tract developer to provide additional turn lane storage for the northbound left-turn lane on NC 55 at Green Hope School Road. This was an additional mitigation proposed in response to a concern expressed to the applicant by Town staff and does not appear as a recommended mitigation in the TIA.

TEST SATISFIED? __ YES __ NO
SUGGESTED MOTIONS FOR SITE PLAN

MOTION TO APPROVE THE SUBDIVISION AND SITE PLAN
For the reasons discussed, I move that we APPROVE the proposed subdivision and site plan with conditions as stated below, as it meets all of the approval criteria set of Section 3.9.2(I).

This approval is conditioned upon the following:

1. The applicant must satisfactorily address any remaining Development Review Committee comments on the master plan set submitted for signature.

2. [insert any additional conditions necessary to bring the project into compliance with the LDO or other standards]

OR

MOTION TO DENY THE SUBDIVISION AND SITE PLAN
For the reasons discussed, I move that we DENY the proposed subdivision and site plan, as it does not meet all of the approval criteria set forth in Section 3.9.2(I).